

## **NEPA Forecast Report February 23, 2017**

### **APPROACHING DEADLINES (NEXT 2 WEEKS)**

Nothing to report

### **MONITORING (Projects Either Meet or Potentially Meet Elevation Criteria)**

#### **1. Potential and Prior Adverse Ratings on Draft EISs:**

##### **R8/Forest Service/Supplemental Draft EIS/Hunter/Monument No. 1 Reservoir Expansion/Potential Adverse Rating (Pre-Supplemental DEIS expected late Feb. 2017):**

The supplemental DEIS will evaluate a special-use authorization to reconstruct and enlarge Hunter Reservoir and also includes the enlargement of Monument No. 1 on the Grand Mesa National Forest near Colbran, CO. Over the next 30 years, demand is projected to increase by two and a half times the current amount of 14,300 acre-feet, and the reservoir storage is for periods of drought. Region 8 has been working with the USFS and COE since 2004 on this project. The 2007 DEIS proposed the Hunter Reservoir expansion only, and was assigned an adverse rating of “EU-3” (Environmentally Unsatisfactory – Inadequate Information), due to impacts to a 32-acre high quality montane peat/fen wetland complex and lack of a range of alternatives. After the 2007 Adverse Rating, formal negotiations lead to the COE identifying Monument No. 1 as the LEDPA. Now that Ute Water has increased its projection of future water needs, they claimed they must include both Monument No. 1 and Hunter as the proposed action. EPA reiterated its concerns with the proposed project in scoping comments sent in February 2016, especially in light of the addition of Monument No. 1 and increased future water needs projected by the project proponent. Based on recent discussions with USFS, Region 8 anticipated that a new alternative will be evaluated in the supplemental EIS for the enlargement of Monument 1 only, and will not include Hunter Reservoir. Region 8 anticipates the new alternative will address the issues raised with the adverse rating.

##### **R9/Bureau of Land Management/Draft EIS/ Greater Phoenix Mine/Potential Adverse Rating:**

The Draft EIS evaluates the expansion of an open pit gold, silver and copper mine located in Lander County, Nevada. The proposed project includes: expanding the plan of operations boundary; consolidating existing pits areas; expanding the waste rock facility, the tailings storage facility and the Copper Heap Leach Pad and extending the mine life from 2040 to 2063. New surface disturbance would include approximately 3,245 acres and the proposed action changes the closure methodology to a plan that requires active acidic pit lake water management and treatment in perpetuity. EPA provided scoping comments on October 29, 2015. As a cooperating agency, EPA reviewed the Administrative Draft EIS in December 2016 and provided comments outlining concerns regarding the pit lake maintenance in-perpetuity and lack of financial assurance information. EPA continues to coordinate with the Bureau of Land Management (BLM) as a cooperating agency and anticipates receiving the BLM’s response to our comments as early as this week. BLM has indicated that they intend to publish the Draft EIS within the next month.

**R9/Forest Service/Record of Decision/ Rosemont Mine/Potential Referral of Adverse**

**Rating:** The EIS is for a proposed new, open-pit copper and molybdenum 4800 acre mine to be constructed mostly on USFS National Forest Land southwest of Tucson. If the Rosemont Mine is brought into production, it would be one of the largest U.S. copper mines. EPA rated the draft EIS as "EU-3" (Environmentally Unsatisfactory – Inadequate Information). The major concerns outlined in our DEIS comment letter are regarding: water quality, quantity and habitat (wetlands) ARNI designations (Davisidson Canyon Wash and Cienega Creek), impacts to air quality, tribal and cultural resources, biological resources, and human health. Upon review of the FEIS, EPA determined that the issues underlying its “environmentally unsatisfactory” rating had not been resolved; therefore, in December 2013, pursuant to its CAA Section 309 mandate, EPA notified the USFS and CEQ that the Project remains a candidate for referral. EPA requested, and the USFS granted, an extension of the referral deadline until a to-be-determined date. The extension was intended to allow time for an interagency process to seek resolution of the outstanding issues and avoid the need for referral, and for the Corps Section 404 permit decision to inform any referral decision. Since late 2013, CEQ has been facilitating interagency discussions toward this end. On December 28, 2016, the Corps sent a letter to the applicant to signal the Corps intent to not authorize a 404 permit for the current proposal. The key factors identified by the District that support a permit denial are determinations that the proposed Rosemont Mine will cause or contribute to violations of state water quality standards, significant degradation of waters of the US and degradation, and that the proposed minimization and mitigation measures were inadequate. In addition, the Corps concluded that implementation of the proposed project would be contrary to the public interest due to concerns there are adverse effects to cultural resources and traditional cultural properties important to tribes.

**R7/Corps of Engineers/St. John’s Bayou-New Madrid Floodway/Adverse Rating on the**

**2013 Draft EIS:** The EIS evaluates a \$161 million Tentatively Selected Plan (TSP) to construct a 1,500 ft. long levee, closing an opening between existing levees, and cutting off the last remaining connection in Missouri between the Mississippi River and its backwater floodplain. The TSP also includes installing two pumping stations in the New Madrid Floodway and modifying drainage ditches in the St. John’s Bayou Basin. There have been seven EIS documents prepared for the project since 1975. EPA rated the 2013 draft EIS as EU-2, concluding that the proposed project may significantly degrade unique, rare, and valuable wetland resources in one of the last remaining areas of the Mississippi River floodplain where connectivity regularly occurs, uncertainties about proposed compensatory mitigation and the potential availability of practicable, less environmentally damaging alternatives. Department of Interior (DOI) has referred the New Madrid Floodway portion of the project to the White House Council on Environmental Quality (CEQ). The referral was concluded in a resolution by CEQ with mutual commitments by DOI and the Corps of Engineers that any future work to benefit agricultural lands and provide other benefits in the New Madrid Floodway portion of the project must not cause any unacceptable and unmitigatable impacts to natural resources, must avoid and minimize remaining impacts to the maximum extent practicable, and that all remaining impacts to wetlands, floodplain connectivity, and fish and wildlife must be fully mitigated in accordance with applicable law, federal principles including standards of additionality, durability, and performance measure. Based on the resolution of the CEQ referral, we think that EPA concerns will be resolved in the Final EIS. Currently, there is no timeline for the Final EIS.

## **2. FEIS Letters that Characterize Residual Serious Concerns:**

Nothing to Report

## **3. Potential Regional Controversy, Significant Media Attention, or Congressional/State Concerns:**

**R8/Bureau of Land Management/Post Draft EIS/Enenefit Utility Corridor Project/Potential Significant Media Attention, or Congressional/State concerns:** The EIS evaluates 5 proposed utility right-of-ways across Bureau of Land Management (BLM) land in the Uintah Basin to supply and deliver product from a proposed oil shale project on private/state lands. The utility project is receiving a lot of public scrutiny because of the proposed mining operation. EPA provided comments on the Draft EIS on July 15, 2016. EPA rated the preferred alternative a “3” due to a lack of quantitative analysis of the environmental impacts of the oil shale project and requested the development of a supplemental EIS to address these concerns. Region 8 is collaborating with the BLM field office to address the issues raised in our comment letter.

**R4/ National Oceanic and Atmospheric Administration (we are a trustee and will sign the ROD)/ Deepwater Horizon Oil Spill Draft Restoration Plan I and EIS: Provide and Enhance Recreational Opportunities/Potential Significant Media Attention:** This EIS was prepared by the Alabama Trustee Implementation Group (TIG) in accordance with the February 16, 2016, decision in *Gulf Restoration Network v. Jewell et al.*, Case 1:15-cv-00191-CB-C (S.D. Ala.). In that decision, the court prohibited the use of \$58.5 million in early restoration funds until additional analysis was completed under NEPA and OPA. This draft RP/EIS fulfills the federal and state natural resources trustees' responsibilities under this court order. It also looks more broadly at the potential to provide restoration for lost recreational use within Alabama by evaluating nine project alternatives that are intended to compensate for a part of Alabama's recreational use injury. Out of those nine projects, the AL TIG proposes moving forward with 6 alternatives totaling \$70,675,000- including \$56,300,000 for the Gulf State Park Lodge- which was litigated. We will be signing the ROD as a National Resource Damage Assessment (NRDA) trustee and have been coordinating closely with the AL TIG on several preliminary drafts. Region 4 sent a comment letter to the National Oceanic and Atmospheric Administration on 1/30/2017. Region 4 has notified OFA that the state of Alabama TIG representatives indicated that they expect further litigation on the EIS.

## **4. Policy or Precedent Setting Comments:**

Nothing to Report